



*John T. Auberger*  
*Supervisor*

# **TOWN OF GREECE**

1 VINCE TOFANY BOULEVARD ■ GREECE, NEW YORK 14612-5016

## **BOARD OF ZONING APPEALS**

### **MINUTES**

**MARCH 2, 2010**

#### **General Information:**

**Work Session: 6:30 p.m.**

**Meeting: 7:00 p.m.**

#### **Roll Call:**

**Albert F. Meilutis, Chairman**

**Diana Christodaro**

**Randy T. Jensen**

**William F. Murphy**

**John J. Riley**

**Christopher A. Schiano, Deputy Town Attorney**

**Ivana Frankenberger, Planning Assistant**

**Mary Jo Santoli, Secretary to the Zoning Board**

#### **Absent:**

#### **Pledge of Allegiance**

#### **Additions/Deletions to the Agenda**

#### **Announcements:**

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**OLD BUSINESS:**

- 1. Applicant:** Simonetti Property Management, LLC  
**Location:** 2037, 2047 & 2081 West Ridge Road  
**Mon. Co. Tax No.:** 074.19-5-6.11, 074.19-5-5.1 & 074.19-5-2.111  
**Zoning District:** BP-2 (Professional Office) & BR (Restricted Business)  
**Request:** a) An area variance for a business center to have a second freestanding sign of 68.8 sq. ft., instead of the one 80.0 sq. ft. maximum permitted. Sec. 211-52 B (1)(a)[2] & Sec. 211-52 B (1)(d), Table VI  
b) An area variance for a business center to have a third freestanding sign of 49.6 sq. ft., instead of the one 80.0 sq. ft. maximum permitted. Sec. 211-52 B (1)(a)[2] & Sec. 211-52 B (1)(d), Table VI

**On a motion by Ms. Christodaro and seconded by Mr. Jensen, it was resolved to continue the public hearing on this application until the meeting of March 16, 2010, at the applicant's request.**

<b>Vote:</b>	<b>Ms. Christodaro</b>	<b>Yes</b>	<b>Mr. Jensen</b>	<b>Yes</b>
	<b>Mr. Meilutis</b>	<b>Yes</b>	<b>Mr. Murphy</b>	<b>Absent</b>
	<b>Mr. Riley</b>	<b>Yes</b>		

**Motion Carried  
Application Continued  
Until Meeting of  
March 16, 2010**

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**NEW BUSINESS:**

- 1. Applicant:** James S. Sansone  
**Location:** 40 Edgemere Drive  
**Mon. Co. Tax No.:** 035.20-1-15  
**Zoning District:** R1-E (Single-Family Residential)  
**Request:**
- a) An area variance for a proposed principal structure addition to have a (west) side setback of 4.0 ft., instead of the 6.0 ft. minimum required. Sec. 211-11 D (2), Table I
  - b) An area variance for a proposed principal structure addition to have a rear setback of 93.5 ft. (measured from the center line of Edgemere Drive), instead of the 110.9 ft. minimum required. Sec. 211-11 D (2), Table I
  - c) An area variance for proposed accessory structures totaling 855 sq. ft., where 800 sq. ft. is the maximum gross floor area permitted for lots less than 16,000 sq. ft. in area. Sec. 211-11 E (1), Table I

**Mr. Riley offered the following resolution and moved for its adoption:**

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 40 Edgemere Drive, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5 (c) (9), (10) & (12) of the SEQRA Regulations).
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEQRA.

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**Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:**

<b>Vote:</b>	<b>Ms. Christodaro</b>	<b>Yes</b>	<b>Mr. Jensen</b>	<b>Yes</b>
	<b>Mr. Meilutis</b>	<b>Yes</b>	<b>Mr. Murphy</b>	<b>Absent</b>
	<b>Mr. Riley</b>	<b>Yes</b>		

**Motion Carried**

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**Mr. Riley then offered the following resolution and moved its adoption:**

WHEREAS, with regard to the application of James S. Sansone, 40 Edgemere Drive, Mr. Sansone appeared before the Board this evening requesting an area variance for a proposed principal structure addition to have a (west) side setback of 4.0 ft., instead of the 6.0 ft. minimum required; an area variance for a proposed principal structure addition to have a rear setback of 93.5 ft. (measured from the center line of Edgemere Drive), instead of the 110.9 ft. minimum required; and an area variance for proposed accessory structures totaling 855 sq. ft., where 800 sq. ft. is the maximum gross floor area permitted for lots less than 16,000 sq. ft. in area.

WHEREAS, Mr. Greg Bly from LaDieu Associates testified on behalf of the applicant this evening. It was noted that Dr. Sansone has owned the property for approximately 10 years. The purpose of this project is going to be some enhancements to the exterior of the home, as well as additions to a garage, which currently stands as a two-car garage; plans indicate that it will be increased to a three car garage. Mr. Sansone testified that the work will be preformed by a professional contractor. Additionally, Mr. Bly testified that the Sansone lot falls just shy of the 16,000-sq.-ft. lot size, which would have allowed 1000 sq. ft. in accessory structures. Mr. Sansone's neighbor to the west, at 46 Edgemere Drive, spoke to the record in favor of this project. It is my opinion that the requested variances, individually and as a whole, are not substantial.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board, I move to approve the application.

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**Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:**

<b>Vote:</b>	<b>Ms. Christodaro</b>	<b>Yes</b>	<b>Mr. Jensen</b>	<b>Yes</b>
	<b>Mr. Meilutis</b>	<b>Yes</b>	<b>Mr. Murphy</b>	<b>Absent</b>
	<b>Mr. Riley</b>	<b>Yes</b>		

**Motion Carried**  
**Application Approved**

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- 2. Applicant:** Raymond DiVasto  
**Location:** 320 Eden Lane  
**Mon. Co. Tax No.:** 073.20-6-1.1  
**Zoning District:** R1-18 (Single-Family Residential)  
**Request:** a) An area variance for a proposed detached garage (approximately 1530 sq. ft.), totaling approximately 2414 sq. ft. in all accessory structures, where 1250 sq. ft. is the maximum gross floor area permitted for lots over one acre in area. Sec. 211-11 E (1), Table I  
b) An area variance for a proposed accessory structure (detached garage; approximately 1530 sq. ft.) to have an overall height of 21.8 ft., instead of the 17.0 ft. maximum permitted. Sec. 211-11 E (1), Table I

**Mr. Riley offered the following resolution and moved for its adoption:**

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 320 Eden Lane, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (See § 617.5 (c) (10) of the SEQRA Regulations).
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, no further action relative to this proposal is required by SEQRA.

**Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:**

<b>Vote:</b>	<b>Ms. Christodaro</b>	<b>Yes</b>	<b>Mr. Jensen</b>	<b>Yes</b>
	<b>Mr. Meilutis</b>	<b>Yes</b>	<b>Mr. Murphy</b>	<b>Absent</b>
	<b>Mr. Riley</b>	<b>Yes</b>		

**Motion Carried**

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**Mr. Riley then offered the following resolution and moved its adoption:**

WHEREAS, with regard to the application of Raymond DiVasto, 320 Eden Lane, Mr. DiVasto appeared before the Board this evening requesting an area variance for a proposed detached garage (approximately 1530 sq. ft.), totaling approximately 2414 sq. ft. in all accessory structures, where 1250 sq. ft. is the maximum gross floor area permitted for lots over one acre in area; and an area variance for a proposed accessory structure (detached garage; approximately 1530 sq. ft.) to have an overall height of 21.8 ft., instead of the 17.0 ft. maximum permitted.

WHEREAS, Mr. DiVasto testified that he has lived at 320 Eden Lane approximately 2 ½ to 3 years. This site in particular is unique to the neighborhood; it sits on approximately 24 acres of land. Mr. DiVasto has requested the variances to construct a new garage on his property, primarily to facilitate storage of maintenance equipment, which will be used to maintain his 24 acres of property. He also stated that the new garage height, which was questioned, will match the existing garage and house. Mr. DiVasto's property is substantially shielded from all surrounding neighbors and he states that he cannot see any neighboring houses.

WHEREAS, it is my opinion that an undesirable change will not be produced in the character of the neighborhood, nor will it be a detriment to nearby properties should this variance be granted. As stated earlier, this unique piece of property is substantially shielded with trees from surrounding neighborhoods. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue. It is my opinion that the requested area variances are not substantial. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Although the alleged difficulty was self-created, which consideration is relevant to the decision of the Board, it shall not necessarily preclude the granting of the area variance.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact; and

Having considered the statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this section; and

Having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community, and that the benefit to the applicant is substantial; and

Having found that this is a Type II action pursuant to SEQRA, requiring no further action by this Board, I move to approve this application with the following conditions:

1. That no heating or plumbing or any type of space heating equipment are to be provided to the new structure.
2. And the applicant agrees to random inspections by Code Compliance.

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**Seconded by Mr. Jensen and duly put to a vote, which resulted as follows:**

<b>Vote:</b>	<b>Ms. Christodaro</b>	<b>Yes</b>	<b>Mr. Jensen</b>	<b>Yes</b>
	<b>Mr. Meilutis</b>	<b>Yes</b>	<b>Mr. Murphy</b>	<b>Absent</b>
	<b>Mr. Riley</b>	<b>Yes</b>		

**Motion Carried**  
**Application Approved**  
**With Conditions**

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- 3. Applicant:** Vincent Barbaro  
**Location:** 236 Cherry Creek Lane  
**Mon. Co. Tax No.:** 088.02-4-3  
**Zoning District:** R1-E (Single-Family Residential)  
**Request:** a) A Special Use Permit for a proposed in-law apartment. Sec. 211-11 C (2) (e).  
b) An area variance for a proposed in-law apartment to have a floor area of 667 sq. ft., instead of the 600 sq. ft. maximum permitted. Sec. 211-11 C (2) (e) [2]

**Ms. Christodaro offered the following resolution and moved for its adoption:**

WHEREAS, this application came before the Town of Greece Board of Zoning Appeals( the "Board of Zoning Appeals") relative to the property at 236 Cherry Creek Lane, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617 *et seq.*, the "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes an Unlisted action under SEQRA.
2. The Board of Zoning Appeals has considered the Proposal at a public meeting (the "Meeting") in the Greece Town Hall, 1 Vince Tofany Boulevard, at which time all persons and organizations in interest were heard.
3. Documentary, testimonial, and other evidence were presented at the Meeting relative to the Proposal for the Board of Zoning Appeals' consideration.
4. The Board of Zoning Appeals carefully has considered an Environmental Assessment Form and supplementary information prepared by the Applicant and the Applicant's representatives, including but not limited to supplemental maps, drawings, descriptions, analyses, reports, and reviews (collectively, the "Environmental Analysis").
5. The Board of Zoning Appeals carefully has considered additional information and comments that resulted from telephone conversations, meetings, or written correspondence from or with the Applicant and the Applicant's representatives.
6. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with various involved and interested agencies, including but not limited to the Monroe County Department of Planning and Development, the Town of Greece Environmental Board, and the Town's own staff.
7. The Board of Zoning Appeals carefully has considered information, recommendations, and comments that resulted from telephone conversations, meetings, or written correspondence from or with nearby property owners, and all other comments submitted to the Board of Zoning Appeals as of this date.

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8. The Environmental Analysis examined the relevant issues associated with the Proposal.
9. The Board of Zoning Appeals has met the procedural and substantive requirements of SEQRA.
10. The Board of Zoning Appeals carefully has considered each and every criterion for determining the potential significance of the Proposal upon the environment, as set forth in SEQRA.
11. The Board of Zoning Appeals carefully has considered (that is, has taken the required "hard look" at) the Proposal and the relevant environmental impacts, facts and conclusions disclosed in the Environmental Analysis.
12. The Board of Zoning Appeals concurs with the information and conclusions contained in the Environmental Analysis.
13. The Board of Zoning Appeals has made a careful, independent review of the Proposal and the Board of Zoning Appeals' determination is rational and supported by substantial evidence, as set forth herein.
14. To the maximum extent practicable, potential adverse environmental effects revealed in the environmental review process will be minimized or avoided by the incorporation of mitigation measures that were identified as practicable.

NOW, THEREFORE, be it

RESOLVED that, pursuant to SEQRA, based on the aforementioned information, documentation, testimony, and findings, and after examining the relevant issues, the Board of Zoning Appeals' own initial concerns, and all relevant issues raised and recommendations offered by involved and interested agencies and the Town's own staff, the Board of Zoning Appeals determines that the Proposal will not have a significant adverse impact on the environment, which constitutes negative declaration.

**Seconded by Mr. Riley and duly put to a vote, which resulted as follows:**

<b>Vote:</b>	<b>Ms. Christodaro</b>	<b>Yes</b>	<b>Mr. Jensen</b>	<b>Yes</b>
	<b>Mr. Meilutis</b>	<b>Yes</b>	<b>Mr. Murphy</b>	<b>Absent</b>
	<b>Mr. Riley</b>	<b>Yes</b>		

**Motion Carried**

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**Ms. Christodaro then offered the following resolution and moved its adoption:**

WHEREAS, with regard to the application of Vincent Barbaro, 236 Cherry Creek Lane, Mr. Barbaro and his builder, Mr. Ermanno Fallone, appeared before the Board this evening requesting a Special Use Permit for a proposed in-law apartment and an area variance for a proposed in-law apartment to have a floor area of 667 sq. ft., instead of the 600 sq. ft. maximum permitted.

WHEREAS, the applicant and the builder testified that this is a new build and we went through the requirements for the in-law apartment. It will be occupied by the applicant's mother and through testimony, the requirements have been satisfied. Going through the area variance, I do not believe an undesirable change will be produced in the

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neighborhood, nor will it be a detriment to nearby properties. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue. The requested area variance is not substantial and the proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district. While the alleged difficulty could be considered self-created because this is a new build, which consideration is relevant to the decision of the Board, it doesn't preclude the granting of this area variance.

THEREFORE, I move to approve the application.

**Seconded by Mr. Riley and duly put to a vote, which resulted as follows:**

<b>Vote:</b>	<b>Ms. Christodaro</b>	<b>Yes</b>	<b>Mr. Jensen</b>	<b>Yes</b>
	<b>Mr. Meilutis</b>	<b>Yes</b>	<b>Mr. Murphy</b>	<b>Absent</b>
	<b>Mr. Riley</b>	<b>Yes</b>		

**Motion Carried**  
**Application Approved**

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**MODIFICATION TO NEIGHBORHOOD NOTIFICATION:**

- 1. Applicant:** Ramay Central LLC, D&D Partners Rochester LLC & Ramay West/Greece LLC
- Location:** 2590, 2600 & 2648 West Ridge Road
- Mon. Co. Tax No.:** 074.14-1-23, 074.14-1-24.1 & 074.14-1-26
- Zoning District:** BR (Restricted Business)
- Request:**
- a) An area variance for a permitted second freestanding sign for a business center, with a sign area of 115.5 sq. ft., instead of the 80 sq. ft. maximum permitted. Sec. 211-52B (1)(d), Table VI
  - b) An area variance for a third freestanding sign to have a sign area of 97.5 sq. ft., instead of the two freestanding signs of 80.0 sq. ft. permitted for a business center which has frontage on more than one New York State or Monroe County highway, has more than 300 ft. of frontage on each said highway and has direct vehicular access to each said highway. Sec. 211-52 (B) (1)(a)[3], Sec. 211-52 B (d), Table VI

The applicant for the request by Ramay Central LLC, D&D Partners Rochester LLC, and Ramay West/Greece LLC has requested a modification to the neighborhood notification requirements, to reduce the number of property owners to be notified. The basis for this request is the large size of the subject parcel and the many properties that would be included in the notification but are not near the subject of the variances.

**On a motion by Mr. Riley and seconded by Mr. Jensen, it was resolved to amend the Neighborhood Notification for the application by Ramay Central LLC, D&D Partners Rochester LLC & Ramay West/Greece LLC, relying on the Town staff's judgment for fulfillment of the zoning ordinance intent for adequate neighborhood notification, which should be just the parcels across from the proposed project location and elsewhere applicable, which would be parcels on either side of the proposed project on West Ridge Road. These are the parcels that potentially would be affected most by the proposed variances.**

<b>Vote:</b>	<b>Ms. Christodaro</b>	<b>Yes</b>	<b>Mr. Jensen</b>	<b>Yes</b>
	<b>Mr. Meilutis</b>	<b>Yes</b>	<b>Mr. Murphy</b>	<b>Absent</b>
	<b>Mr. Riley</b>	<b>Yes</b>		

**Motion Carried  
Request Granted**

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BOARD OF ZONING APPEALS MINUTES  
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**APPROVAL OF MINUTES**

**APPROVAL OF BOARD OF ZONING APPEALS MEETING MINUTES**

**Motion by Mr. Jensen, seconded by Ms. Christodaro, to approve the minutes of the February 2, 2010, Board of Zoning Appeals meeting:**

<b>Vote:</b>	<b>Ms. Christodaro</b>	<b>Yes</b>	<b>Mr. Jensen</b>	<b>Yes</b>
	<b>Mr. Meilutis</b>	<b>Yes</b>	<b>Mr. Murphy</b>	<b>Absent</b>
	<b>Mr. Riley</b>	<b>Yes</b>		

**Motion Carried  
February 2, 2010,  
Minutes Approved**

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**ADJOURNMENT**

The meeting was adjourned at 7:30 p.m.

The Board of Zoning Appeals of the Town of Greece, in the County of Monroe and State of New York, rendered the above decisions.

**Dated:** \_\_\_\_\_  
Albert F. Meilutis, Chairman

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